



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

John Lee, Chairman
Susanne Murphy, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Rick Merrikin, Member
Drew Delaney, Alternate

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DECISION - BOARD OF APPEAL CASE NO. 26-18

APPLICANT

Highland Development Ventures, LLC.

FILE

LOCATION OF PROPERTY INVOLVED:

**Corner of Foxhill Drive & Providence Highway/ Route One
Walpole Assessors Map 53, Parcel 34
Zoning District: HBD**

APPLICATION:

A Special Permit under Section 8.4(C) of the Zoning Bylaws to allow less than the minimum amount of parking as one-hundred twenty-one (121) parking spaces are required and sixteen (16) parking spaces are proposed at the corner of Foxhill Drive and Providence Highway/ Route One, Assessors Map 53, Parcel 34, Walpole, MA 02081.

On January 2, 2019 a Public Hearing was opened and continued to January 16, 2019 and March 6, 2019, for the purpose of receiving information and voting upon a decision as to granting of the Special Permit requested. The members who were present and voting:

John Lee, Chairman
Robert Fitzgerald, Clerk
Rick Merrikin, Member
Mary Jane Coffey, Member
Drew Delaney, Associate Member

VOTE OF THE BOARD:

A motion was made by Delaney and seconded by Fitzgerald to grant the Special Permit under Section 8.4(C) of the Zoning Bylaws to allow less than the minimum amount of parking as one-hundred twenty-one (121) parking spaces are required and sixteen (16) parking spaces are

proposed at the corner of Foxhill Drive and Providence Highway/ Route One, Assessors Map 53, Parcel 34, Walpole, MA 02081.

The vote was 5-0-0 in favor (Lee, Fitzgerald, Coffey, Merrikin, Delaney in favor; therefore, the Special Permit under Section 8.4(C) is hereby granted subject to the following conditions:

1. The project shall be built according to the final plans approved by the Planning Board, dated March 1, 2019, stamped by James Bernardino of Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772.

REASONS FOR DECISION

It is the finding of the Board that the Applicant was able to meet the requirements of Section 8.4(C) to allow the requested reduction in parking in the Highway Business District. The Board finds that the proposed 3-story Class-A Self-Storage facility does not warrant the need for the required one-hundred twenty-one (121) parking spaces even at the peak hours of operation, and that sixteen (16) parking spaces would suffice for customers and employee parking. Accordingly, the Board has determined that the Special Permit requested is warranted.

FURTHER FINDINGS

Section 2: Administration, 2. Special Permits, B. Finding and Determination required that:

(1) Prior to granting a special permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:

(a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;

Section 8.4(C) of the Bylaw does not establish any specific standards, other than those set out in Section 2 of the Bylaw, for the granting of this special permit. Accordingly, the Board finds this condition satisfied.

(b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;

The Board finds that the project has minimal impact upon the immediate neighborhood. The building is in a Highway Business District which was created for commercial activity such as the proposed project. Based upon information discussed at the hearing, minimal traffic will enter or exit the storage facility from the entrance of Foxhill Drive and the reduced number of parking spaces are sufficient for the operation of the facility. The traffic entering and existing will not be of a quantity to adversely affect the neighborhood. There will be a minimum impact on vehicular and pedestrian traffic. According to the applicant, self-storage facilities do not invite a lot of traffic and tenants visit their units for short durations; just enough time to park,

load/unload, and leave. Most tenants visit their unit only a couple of times a year, and the tenants that do come more frequently tend to have to load/unload and stay for even shorter durations. As such, this criterion is satisfied.

- (c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;**

There will be one (1) full-time employee at the location during hours of operation and a minimal amount of customers and visitors at different times during hours of operation. Accordingly, the Board finds that there will not be any adverse effect on the neighborhood and this condition is satisfied.

- (d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;**

The Board finds that the project meets all dimensional requirements applicable to the Highway Business District. Therefore, the Board is satisfied that this condition is met.

- (e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;**

The Board finds that the proposed Self-Storage Facility has no activities or products being used or stored on the locus which would cause any danger to the immediate neighborhood of the premises through fire, explosion, emissions of waste or other causes. The applicant indicated that its standard operating procedures include monitoring the facility for risks of fire or other potential dangers. As result, this condition is satisfied.

- (f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;**

The Board finds that some noise and minimal dust will be generated for a short period of time during construction. Nothing proposed by the applicant is being used, generated or is otherwise anticipated that would create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood. Therefore, this condition is satisfied.

- (g) shall not adversely affect the character of the immediate neighborhood; and**

The proposed Storage Facility will be located in the Highway Business District and is similar to other storage facilities that have been built along Route One, and will not adversely affect the character of the immediate neighborhood. Therefore, this condition is satisfied.

(h) shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that the purpose of the Zoning Bylaw in part states, "to encourage housing for persons of all income levels..." "to encourage the most appropriate use of the land". The proposed Storage Facility located in the Highway Business District will be an attractive and noticeable business along the busy traffic artery of Boston Providence Highway/ Route 1. The facility will express a sense of quality and security while conveying the building's function, which is consistent with the purpose of the Bylaw. As such, this use, conditioned appropriately, is entirely compatible with the purpose of the Zoning Bylaw and this condition is satisfied.

Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.

The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

Robert Fitzgerald

Robert Fitzgerald, Clerk

cc: Town Clerk Engineering Planning Board
Board of Selectmen Building Inspector Conservation Commission

135 School Street, Walpole, MA 02081